

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC990159

**Ex Parte: In re: Investigation of area
code relief for the 804 Numbering Plan
Area**

REPORT OF MICHAEL D. THOMAS, HEARING EXAMINER

July 19, 2000

History of the Case

On June 24, 1999, the North American Numbering Plan Administrator (“NANPA”), on behalf of the Virginia telecommunications industry (the “Industry”), provided notice to the Commission of the Industry’s consensus recommendation to implement an all-services distributed overlay relief plan for the 804 Numbering Plan Area (“804 area code”).

On September 23, 1999, the Commission entered an Order Assuming Jurisdiction in which the Commission docketed the matter and suspended the implementation of the proposed overlay for the 804 area code pending further order of the Commission.

On December 29, 1999, the Commission entered an Order Assigning Hearing Examiner in which the Commission: (1) assigned a Hearing Examiner to conduct all further proceedings in the case; (2) directed the Hearing Examiner to schedule hearings to receive public comments within the area served by the 804 area code; and (3) ordered the Hearing Examiner to direct the Commission’s Division of Communications to publish newspaper notice about the time and place of the public hearings and the docket number to which written comments may be sent.

By Hearing Examiner’s Ruling entered on January 19, 2000, local hearings were scheduled for 2:00 p.m. and 7:00 p.m. on March 6, 2000, in the Charlotte County Circuit Court, and at 2:00 p.m. and 7:00 p.m. on March 9, 2000, in the Commission’s Second Floor Courtroom, for the purpose of receiving public comment on the proposed overlay plan. In addition, an evidentiary hearing was scheduled for March 27, 2000, for the purpose of receiving any additional public comments, evidence, and oral argument concerning the appropriate area code relief and proposed implementation of the overlay plan for the 804 area code.

The March 6th hearings to receive public comment on the proposed overlay plan were convened as scheduled. Appearing as public witnesses at the 2:00 p.m. hearing were: Mr. Wilkie Chaffin, a resident of Prince Edward County; Rev. Dr. Richard Lowe, a resident of Charlotte County; Ms. Vicki St. John, a resident of Charlotte County; and, Mr. Gary D. Walker, a resident of Charlotte County. Appearing as public witnesses at the 7:00 p.m. hearing were: Mr. Haywood Hamlett, a member of the Charlotte County Board of Supervisors; Mr. Bill Baldwin, the Charlotte County 911 coordinator; Mr. James Ramsey, Jr., a resident of Charlotte County; Mr. Rex

Hammond, president of the Lynchburg Regional Chamber of Commerce; and Mr. Ralph Moore, representing the Charlotte County Public Schools, Charlotte County Industrial Development Authority, and Charlotte County Farm Bureau.

The March 9th hearings to receive public comment on the proposed overlay plan were convened as scheduled. Appearing as public witnesses at the 2:00 p.m. hearing were: Ms. Jane Elder, a resident of Richmond; Ms. Alice Clark, a small business owner in Chesterfield County; Ms. Sue McCool, chief executive officer and owner of SUDIC Enterprises located in Richmond; Ms. Patricia Haynes, owner of Commonwealth Personnel Consultants located in Richmond; Mr. Brian Little, executive director of the Richmond Boys Choir, and Ms. Betty S. W. Graumlich, Esquire, a member of the Board of Directors of the Richmond Chapter of the National Association of Women Business Owners and a principal in the McSweeney, Burtch & Crump law firm. No public witnesses appeared at the 7:00 p.m. hearing.

On March 13, 2000, the Commission's Division of Communications (the "Staff") filed a Motion for Extension of Time to file its report and recommendation regarding the 804 area code relief plan. By Hearing Examiner's Ruling entered on March 15, 2000, the Staff was granted a five-day extension to file its report and recommendation. In addition, the filing date for written comments to the proposed 804 area code relief plan was extended to March 27, 2000.

The March 27th hearing was convened as scheduled. Don R. Mueller, Esquire, appeared for the Staff. Kimberly D. Wheeler, Esquire, appeared as counsel for NeuStar, Inc. James B. Wright, Esquire, appeared as counsel for Sprint Communications of Virginia, Inc., Central Telephone Company of Virginia, United Telephone Southeast, Inc., and Sprint PCS. David W. Ogburn, Jr., Esquire, appeared as counsel for Bell Atlantic – Virginia, Inc. Robert M. Gillespie, Esquire, appeared as counsel for Cox Virginia Telecom. Richard D. Gary, Esquire, and Gregory M. Romano, Esquire, appeared as counsel for GTE South and GTE Wireless. Appearing as public witnesses were: Ms. Jill Butler, a representative of Cox Virginia Telecom, Inc.; Mr. Greg Wolfrey, county administrator of Goochland County; and Mr. Robert Rich, a resident of Goochland County. Appearing as witnesses for the parties were: Mr. Wayne Milby, senior NPA relief planner for NeuStar, Inc.; Ms. Sandra Bocclair, senior telecommunications specialist for the Staff; and Ms. Deborah Grover, manager for regulatory relations for Bell Atlantic – Virginia ("Bell Atlantic"). A copy of the transcript of the several hearings is filed with this Report.

Summary of the Record

March 6, 2000, Public Hearings, Charlotte Court House, Virginia

Mr. Wayne Milby, the senior NPA relief planner for NeuStar, provided background testimony on the North American Numbering Plan and NeuStar's roles and responsibilities as the administrator.¹ Mr. Milby described the various types of area code relief. These include: (1) a geographic split where the existing area code is divided into two or more separate geographic areas with one area retaining the existing area code; (2) an overlay where one or more area codes serve

¹ The Federal Communications Commission selected NeuStar to be the administrator for the North American Numbering Plan.

the same geographic area; (3) a boundary realignment where the boundary of one area code is shifted in order to use spare NXX codes in an adjacent area code; or (4) a combination of methods.

Mr. Milby described some of the attributes of geographic splits and overlays. In a geographic split: (1) each geographic area receives its own area code, which may minimize confusion for customers outside the area; (2) each successive split reduces the geographic size of the area code; (3) a split requires approximately one-half of the customers' numbers in a two-way split and two-thirds of the customers' numbers in a three-way split to change area codes; (4) a split permits seven-digit dialing within an area code; and (5) implementation is generally understood, but customer education is required to explain the new area code boundary. In comparison, an overlay: (1) ends further shrinking of the geographic size of an area code and avoids the need for public and political involvement concerning split boundaries and which side retains the old area code; (2) does not require existing customers to change their area code, thereby eliminating the expense to change stationery or business cards, unless they only contain seven-digit phone numbers; (3) requires customers to dial 1+10 digits for all calls within a geographic area; and (4) will require customer education because it is a new concept. (Tr. at 7-14).

Mr. Milby described the five alternatives considered by the Industry for 804 area code relief. The maps he prepared show the geographic split alternatives by rate center boundary and by political subdivision boundary.²

Alternative 1, Overlay

A new area code would be assigned to the same geographic area as the existing 804 area code. Customers would retain their current telephone numbers; however, ten-digit dialing by all customers between and within area codes in the area covered by the new code would be required. NXX codes in the overlay area code will be assigned upon request with the effective date of the new area code. At exhaust of the 804 area code, all NXX code assignments will be made in the overlay area code. The projected life of the new overlay area code is 10.5 to 21.0 years.³

Alternative 2, Geographic Split

This plan would split the 804 area code into two areas by creating a split boundary along the Local Access Transport area ("LATA") boundaries. The Charlottesville and Lynchburg LATAs, labeled Area A, lie west of the boundary and the Richmond LATA, labeled Area B, lies to the east. The projected life of the area code in Area A is 25.1 to 50.2 years, and for Area B is 4.4 to 8.8 years.

Alternative 3, Geographic Split

This plan would split the 804 area code into two areas by creating a split boundary along rate center boundaries south of the following rate centers: Manakin, Midlothian, Richmond, Chester, Varina, Bethia and Charles City. The projected life of the area code in Area A is 12.7 to 25.4 years, and for Area B is 8.7 to 17.3 years.

² See, Ex. WM-2.

³ The area code life in years for all the alternatives assumes that code growth continues at 2nd quarter 1999 – 4th quarter 2001 levels and then code growth is reduced by 50% beyond 4th quarter 2001 by the possible implementation of thousand block number pooling and other number conservation methods.

Alternative 4, Geographic Split

This plan would divide the 804 area code into two areas by creating a split boundary along rate center boundaries where Area B is comprised of the Richmond rate center and the nine rate centers surrounding it. The projected life of the area code in Area A is 8.8 to 17.7 years, and for Area B is 12.6 to 25.1 years.

Alternative 5, Geographic Split

This plan would divide the 804 area code into two areas by creating a split boundary along rate center boundaries where Area B is comprised of the Richmond rate center and the nine rate centers surrounding it, as well as Beaverdam, Gumtree, Montpelier, Hanover, Doswell and Old Church. The projected life of the area code in Area A is 9.5 to 19.1 years, and for Area B is 11.6 to 23.2 years.

Tr. at 15-20; Ex. WM-2.

Mr. Milby also described the process the Industry used to reach its unanimous consensus to recommend Alternative 1, the all-services overlay, to the Commission. The Industry eliminated Alternative 2 because of the vast inequity in the projected life of the two area codes. Alternative 3 was eliminated because the proposed split boundary would divide the existing Richmond LATA, as well as Chesterfield County. Alternatives 4 and 5 were eliminated because they create burdens and cause added expense to the wireless industry, create an inconvenience for half of the customers who must change their telephone numbers, and create a competitive disadvantage for small businesses that have to change their numbers. (Tr. at 20-21).

At the conclusion of his testimony, the Hearing Examiner requested that Mr. Milby and NeuStar prepare two additional geographic split alternatives for the Commission's consideration. These alternatives would modify the geographic splits in Alternatives 3 and 5 to include every rate center with a local calling option to Richmond within Area B. The Hearing Examiner requested this modification to address his concern that the people living in these rate centers would have the worst of all outcomes under the proposed geographic split alternatives. Not only would they have to change their area code, but they would have ten-digit dialing for local calls to the Richmond area as well. Mr. Milby agreed to prepare Alternatives 3a and 5a in time for presentation at the next public hearing. (Tr. at 22-25).

A total of nine public witnesses appeared at the two hearings. Mr. Wilkie Chaffin testified that he looked at the various alternatives and their impact on the industry, individuals, and business/governmental entities. He looked at a projected life of fifteen years for the geographic split and an overlay and the impact it would have on these groups. He would rather have the one-time inconvenience of a geographic split than the fifteen year inconvenience of having to deal with an overlay. Mr. Chaffin believes the Commission should look after the ordinary consumer in reaching its decision in this case. He did not favor one geographic split over another. (Tr. at 26-31).

The Rev. Dr. Richard Lowe testified he was concerned with the location of the geographic splits and why they did not occur along county boundaries. In choosing these boundaries, he

believes the Industry's priorities are misplaced. He raised the question "what's more important, people or money." He also expressed his concern that senior citizens may have difficulty with an overlay. He believes that requiring senior citizens to dial ten digits for local calls is politically, medically and socially insensitive. Of the geographic splits, he favored Alternative 3. (Tr. at 32-37).

Ms. Vicki St. John testified that common sense tells her that Richmond and the surrounding area should be given a different area code. She believes that dialing ten digits for local calls will be too troublesome. She is in favor of Alternative 4. (Tr. at 37-38).

Mr. Gary Walker testified that people in rural Virginia do not need the confusion that an overlay will bring to their telephone service. Mr. Walker hopes the Commission will listen to the voice of the people and try to be as fair as possible to people in rural areas. Mr. Walker believes a geographic split along the lines of Alternative 3a would be a good option with a long life span. He believes that improvements in technology in the next ten years may eliminate the need for any other action in the future. (Tr. at 39-44).

Mr. Haywood Hamlett testified that three different phone companies serve Charlotte County and it has eight different telephone exchanges. Mr. Hamlett stated the County would be very much opposed to Alternative 1 and 2. He stated the County would support Alternatives 3, 4, or 5. Mr. Hamlett understands that one area will keep the 804 area code and one area would receive a new area code. He stated Charlotte County could live with a new area code. (Tr. at 71-72).

Mr. Bill Baldwin testified that as the 911 coordinator he was concerned with the interoperability of the county's newly purchased 911 system with an overlay, and whether the system would have to be manually overridden. In response to his concerns, the Hearing Examiner directed the Staff to contact the Industry to resolve this issue. (Tr. at 74-78).

Mr. James Ramsey testified dialing ten digits to call his neighbor was absurd, especially, when a few years ago he had to dial only three or four digits to complete the same call. He also opposed any geographic split of Charlotte County. He preferred Alternatives 3, 4, or 5. He has been in a small business for 50 years and he did not see that it would be a tremendous expense for a business to change stationery and business cards if they were provided sufficient lead time. Mr. Ramsey offered to come to Richmond to help the Commission draw straws to see which geographic area kept the 804 area code and which received the new area code. (Tr. at 79-85, 96-97).

Mr. Rex Hammond testified in favor of the overlay. He believes this alternative would create less confusion and would avoid the unnecessary expense and hardship for businesses that have to change their stationery, business cards and marketing materials. For small businesses in Southside Virginia, a change in area code would create a hardship because of the lack of turnover in printed material. Mr. Hammond testified that at any one time the Lynchburg Regional Chamber of Commerce has approximately \$40,000 worth of marketing materials in stock. For his organization, he is not only concerned with the cost of any area code change, but also the potential disruption of the services to his client businesses if he was unable to timely replace those marketing materials with ones with the new area code. (Tr. at 86-87, 105-106).

Mr. Moore expressed his concern that, in the future when additional telephone lines are added for computers for the Charlotte County school system, the potential exists with an overlay that those additional lines may have a different area code. He also expressed his concern with the interoperability of the county's 911 system with an overlay. He stated that having to dial multiple area codes when returning the 75-100 local telephone calls he receives every day may be burdensome. He testified the school system might be further impacted by delays caused by having multiple area codes and having to contact parents. At some school bus stops, a parent must be present before the bus driver can let any of the children off the bus. The procedure now requires the school bus driver to contact the school and the school then tries to call one of the parents. In the meantime, the school bus is stopped in the road with its lights on and traffic stopped. Mr. Moore believes any additional delay in this process may cause problems. He wonders whether the Commission should consider a three-way geographic split rather than the alternatives presented by the Industry. (Tr. at 88-93).

March 9, 2000, Public Hearings, Richmond, Virginia

Mr. Milby made the same presentation of the 804 relief plans to the audience that he made at the March 6, 2000, hearings. In addition, he explained the two additional geographic split alternatives requested by the Hearing Examiner.

Alternative 3a, Geographic Split

This plan would split the 804 area code into two areas by modifying Area B of Alternative 3 to add all rate centers that currently have seven-digit dialing to the Richmond rate center. The projected life of the area code in Area A is 18.7 to 37.4 years, and for Area B is 5.9 to 11.7 years.

Alternative 5a, Geographic Split

This plan would divide the 804 area code into two areas by modifying Area B of Alternative 5 to include all rate centers that currently have seven-digit dialing to the Richmond rate center. The projected life of the area code in Area A is 14.7 to 29.5 years, and for Area B is 7.5 to 15.0 years.

Tr. at 136-38; Ex. WM-2.

A total of six public witnesses appeared at the public hearings held in Richmond. Ms. Jane Elder testified a better system for allocating telephone numbers should be developed. The current system of allocating numbers in blocks of 10,000 creates a large supply of unused numbers. With local number portability, phone numbers do not have to be distributed in blocks. Ms. Elder did not favor any of the relief plans, just a more efficient use of the numbers we already have. (Tr. at 139-42).

Ms. Alice Clark testified that it seems inevitable that we will be dialing ten digits. As a small business owner, she favors an overlay because it avoids the expense of changing business cards and promotional materials. (Tr. at 143-45).

Ms. Sue McCool testified the last time she moved her business location she was required to get a new phone number. She had to hire part-time help to place labels with the new phone number over the old number on approximately 10,000 promotional brochures. She had to purchase new business cards for everyone that needed them, a total of 4,000 cards minimum. Since the new telephone directory had not been issued, she had to pay \$200 per month to have calls forwarded from the old number to the new number. She believes that small businesses have enough to worry about without having to deal with the hassle and expense of an area code change. She favors an overlay. (Tr. at 145-47).

Ms. Patricia Haynes testified a geographic split would be an unfair burden to all businesses, and particularly to small businesses. She testified technology improvements, Y2K compliance, IDS lines, e-mail, Internet access and all the other process improvements necessary to compete in a global economy are squeezing small businesses. A geographic split will impact these businesses' bottom line, where an overlay will not. Ms. Haynes urges the Commission not to put an unfair burden on small business. (Tr. at 148-50).

Mr. Brian Little testified people are beginning to work towards regionalism in the Richmond metropolitan area. He does not want the confusion that a geographic split will cause. He knows in the near future ten-digit dialing will be required for everyone, and he believes that both young and old alike are flexible enough to adapt to ten-digit dialing. (Tr. at 151-52).

Ms. Betty Graumlich testified that, to the extent a change in the number assignment system cannot alleviate the number shortage, she favors an overlay. As a practicing attorney, her firm would be faced not only with changing all of its stationery, but also notifying all of its clients of the change in its telephone number if the Commission chose a geographic split alternative. (Tr. at 153-54).

No public witnesses appeared at the 7:00 p.m. hearing. The Hearing Examiner observed at the hearing that there appeared to be an obvious difference in opinion between those people that live in the rural portion of the 804 area code, who favor a geographic split, and those that live in the urban portion, who favor an overlay. The Hearing Examiner requested NeuStar to prepare an additional alternative that modified Alternative 3a by placing an overlay on Area B, and present its findings at the evidentiary hearing. This new alternative would be a combination geographic split with an overlay. The Hearing Examiner also requested NeuStar to calculate the projected life of the new alternative, 3b. (Tr. at 157-59).

March 27, 2000, Evidentiary Hearing, Richmond, Virginia

Mr. Milby again made the same presentation of the 804 area code relief alternatives. In addition, he addressed the latest relief alternative requested by the Hearing Examiner.

Alternative 3b, Geographic Split/Overlay

This plan would split the 804 area code into two areas along the same rate center boundaries as Alternative 3a. At the exhaust of the area encompassing Richmond, a new overlay area

code would be implemented in that area. The projected life of the area code in Area A is 18.7 to 37.4 years, and for Area B is 22.3 to 44.7 years.

Tr. at 184-85; Ex. WM-2.

Ms. Jill Butler with Cox Virginia Telecom (“Cox”) testified as a public witness. Cox believes Alternative 3b represents a good compromise between the interests of the various parties who have appeared in this case. As a new entrant, Cox favors a geographic split wherever possible, with overlays being used where communication interests are divided. Ms. Butler described the difficulty a new entrant has in gaining market share when an overlay is used for area code relief. In the 804 area code 61.5% of the NXX codes are held by incumbent local exchange companies, 23% by wireless providers, and 15% by competitive local exchange companies. Ms. Butler testified telephone customers generally perceive the “old” area code to be more desirable than the “new” area code. Even with local number portability, she testified Cox might be at a competitive disadvantage. A customer switching their telephone service to Cox may bring their 804-telephone number with them, but if that customer sought to add a line, Cox might have to issue that customer a number with a different area code because they might not have a supply of 804 numbers. (Tr. at 187-92).

Mr. Gregory Wolfrey, the county administrator for Goochland County, appeared and urged the Commission to avoid any of the geographic split alternatives that divided the county. He would like to see the county remain in one area code. (Tr. at 199-201).

Finally, Mr. Robert Rich testified that, as the chairman of the future growth commission for Goochland County, the community interests of the entire county would best be served if a geographic split of the county were avoided. (Tr. at 202-04).

Mr. Milby appeared again to sponsor his prefiled direct testimony and his prefiled supplemental direct testimony. Mr. Milby testified NANPA began jeopardy rationing NXX codes in the 804 area code on June 28, 1999. Based on the most current estimate, the 804 area code will exhaust in April 2002, rather than the third quarter of 2001 as originally estimated. On cross-examination, Mr. Milby testified the Industry uses a standard that the difference in the projected life of the two sides of a geographic split should not exceed 15 years. The Industry rejected Alternative 2 for this reason. (Tr. at 206-12; Exs. WM-3 and WM-4).

Ms. Sandra Bocclair testified on behalf of the Commissions’ Staff. She observed that public input on the area code relief plans, both oral and written, as a percentage of total customers impacted, has been minimal. As a result, it was difficult for the Staff to conclude that public sentiment favors one relief alternative over another. In response to the concerns raised about interoperability of 911 systems with an overlay, she and representatives from GTE and Bell Atlantic met with the Charlotte County 911 coordinator. They observed how a 911 call and data are routed to the correct Public Safety Answering Point (“PSAP”), the operation of the 911 equipment at the PSAP, and finally, they observed the 911 dispatcher handling calls. Based on their review, they could identify no 911 hardware or software that would be impacted by an overlay or a geographic split.⁴ Ms. Bocclair provided an overview of the various relief alternatives and summarized the

⁴ See, Ex. PF-6, Affidavit of Paul S. Fleshood, 911 Program Manager for GTE VA.

comments received on those alternatives. She noted the Commission petitioned the Federal Communications Commission (the “FCC”) on November 29, 1999, for an expedited decision on the delegation of authority to implement number conservation measures. She further noted that on March 17, 2000, the FCC adopted new policies and rules for the allocation of telephone numbers.⁵ The Staff believes it will take approximately two years for the FCC to implement its order, one year to determine which company will become the pooling administrator, and at least a nine-month period after that to begin the pooling process. The Staff is hopeful the FCC will grant the Commission the authority to implement other number conservation measures. The Staff recommended to the Hearing Examiner that he consider Alternative 3b as the most desirable method of relief for the 804 area code. This option retains seven-digit local dialing in Area A except where an extended local service route crosses the 804 area code boundary. Area A would be assigned a new area code. Area B would retain the 804 area code and would continue with seven-digit dialing until all the 804 numbers were exhausted, approximately 6 years, and then an all-services overlay would be implemented. (Tr. at 214-22; Ex. SB-5).

Ms. Deborah Grover testified on behalf of Bell Atlantic. She explained why an all-services overlay for 804 area code relief, rather than a geographic split, is in the public interest and should be adopted by the Commission. By unanimous consensus, Bell-Atlantic and the Industry voted to recommend an all-services overlay to the Commission as the preferred method of area code relief, after considering the four initial geographic split alternatives. Ms. Grover testified an overlay has significant advantages over any of the geographic split alternatives. It is less disruptive, costly, and confusing for customers than the geographic split alternatives, in both the short- and long-term. In addition, it is competitively neutral, both for customers and telecommunications carriers, and the most forward-looking alternative to address both NXX code conservation and future relief needs. Ms. Grover testified the major advantage of an overlay is that all residents and businesses in the 804 area code would be able to keep their existing telephone numbers. In contrast, a geographic split requires at least half of the existing customers in the 804 area code to change their telephone numbers to reflect the new area code. It creates a system of “have” and “have-nots” with some customers keeping their area code and some customers incurring the expense and inconvenience of changing their area code. (Ex. DG-7).

Ms. Grover explained in great detail of the costs a business may incur with a geographic split. These costs may include advertising (print, television, radio, billboards, and yellow pages), signage, marketing and sales materials, customer databases, and lost business. Ms. Grover further testified that geographic splits, including the four considered by the Industry, tend to fragment communities of interest. Each of the geographic splits proposed in this case would split two-way local calling routes. Alternative 2 would split 12 two-way local calling routes; Alternative 3, 34 two-way routes; Alternative 4, 60 two-way routes; and Alternative 5, 48 two-way routes. In addition, communities of interest would be fragmented by geographic splits. Ms. Grover stated drawing an area code boundary through the Richmond metropolitan area would undermine the sense of regionalism that has been a catalyst for the region’s economic development efforts, and that having an area code different from Richmond’s may have a negative connotation. Ms. Grover further testified that, with a period of customer education, customers can quickly adapt to ten-digit dialing. For example, customers in Northern Virginia have dialed ten digits for local calls to Maryland and Washington, D.C. for the past ten years. In addition, she cited the experience in

⁵ In the matter of Numbering Resource Optimization, No. 99-200, 15 F.C.C.R. 7574 (March 31, 2000).

Maryland, which implemented two simultaneous overlay area codes resulting in mandatory ten-digit dialing throughout the state. The Maryland Public Service Commission received a minimal number of calls concerning the new area code. (*Id.*).

Ms. Grover testified there are compelling reasons to move to uniform ten-digit dialing throughout Virginia. With ten-digit dialing in the 703 area code and Industry recommendations to implement overlays in 540 and 757 area codes, the implementation of ten-digit dialing in the 804 area code would result in a uniform dialing plan throughout Virginia. With the transition to ten-digit dialing during the first overlay, subsequent overlays could be introduced as easily as adding a new exchange code. On the other hand, geographic splits become harder to implement because the area to be split gets smaller and smaller making it more difficult to avoid disrupting customers and dividing communities of interest. A geographic split may also raise public safety issues. Customers calling hospitals, ambulances, police, and fire departments located across the split boundary, using numbers other than 911, would need to know that those numbers had changed. A geographic split also necessitates a change in all customer records for all communications service providers. (*Id.*).

Ms. Grover testified that an overlay is competitively neutral for both telecommunications service providers and for Virginia business customers in the 804 area code who compete with one another. An overlay treats all communications technologies and providers equally since, once NXX codes in the old area code are exhausted, NXX codes in the new overlay area code will be assigned on a first-come, first-served basis to all telecommunications service providers. Local number portability, thousand block number pooling, mandatory ten-digit dialing, and the number of NXX codes already assigned to competitive local exchange carriers, eliminate any argument that an overlay places competitive local exchange carriers at a competitive disadvantage. Businesses who compete against one another would be on a level playing field since no one would be forced to incur the expenses associated with an area code change. (*Id.*).

Finally, Ms. Grover testified that she reviewed Alternatives 3a, 3b and 5a, and in her opinion none of those geographic splits are preferable to an overlay. Alternative 3a splits 12 two-way local calling routes and the boundary runs across four counties.⁶ Alternative 3b suffers from the same drawbacks. Alternative 5a adds an additional boundary to the north that may lead to confusion because the two geographic areas that form Area A are not contiguous. Ms. Grover further testified that the implementation of ten-digit dialing in the 703 area code went smoothly. Bell Atlantic did notice spikes in calls to their operators and to their intercept recording, but after two weeks only three percent of the calls were dialed using the old seven-digit dialing pattern. She testified that Bell Atlantic has no experience with dialing patterns in the 703 area code involving the new overlay area code. The 703 area code has not reached exhaustion. She testified not all competitive local exchange carriers are opposed to an overlay. She cited examples of competitive local exchange carriers supporting an overlay in the 804 and 540 area code relief cases. (Tr. at 228-35).

⁶ The two-way calling routes affected would include: Cartersville to Farmville; Cumberland to Arvonja; Cumberland to Buckingham; Cumberland to Dillwyn; Cumberland to Farmville; Cumberland to Prospect; McKenney to Alberta; McKenney to Lawrenceville; McKenney to Stony Creek; Dinwiddie to Stony Creek; Waverly to Stony Creek; and Waverly to Jarratt. Customers in these areas would not lose their local calling option, but would have to dial ten digits to make a local call. (Tr. at 241-245).

Written Comments

The written comments received to the 804 NPA overlay plan may be conveniently divided into four groups: individuals, businesses and those representing business interests, governmental entities, and the telecommunications industry.

Approximately ten individuals filed written comments. One person favored the overlay plan and the remainder either favored a geographic split or opposed an overlay. The person in favor of the overlay stated no reason for his preference. Those in favor of a geographic split or opposed to an overlay cited a number of reasons for their positions: make a geographic split now and get it over with; dialing 10 digits for every call in perpetuity is too complicated; businesses would incur a cost with a geographic split only if they already print the area code on their stationery; some would rather see a geographic split even if it means getting a new area code; maybe the 804 area code could be split into three geographic regions; although an overlay may be easier for the telecommunications industry and cheaper for small businesses, it will inconvenience the vast majority of phone users just to satisfy a small number; most older people would prefer a new area code to having to dial ten digits for every call; it will be too difficult and time consuming to determine whether a person or business has the old area code or the new area code; and, as more area codes are needed simply make the geographic area served by the area code smaller.

Comments were received from approximately 12 businesses or those representing business interests, such as a Chamber of Commerce. The business community was unanimously in favor of an overlay. Businesses cited a number of reasons for their position: changing area codes is troublesome and costly to small business; overlays are a fairer and more convenient way to introduce new area codes; overlays treat everyone equally; overlays have been implemented successfully in other parts of the country and Virginia; people can learn to change their dialing habits; and the overlay is the least disruptive alternative, let's not inconvenience businesses in Virginia.

The governmental group can be subdivided into two categories. The economic development offices in several political subdivisions were in favor of an overlay and opposed to a geographic split for the same reasons cited by the business community. However, three Boards of Supervisors submitted resolutions or comments for the Commission's consideration. The Charlotte County Board of Supervisors opposes an overlay and the Industry's geographic split alternative that divides Charlotte County in half. They would prefer one of the other geographic split alternatives, or would encourage the Commission to look into the possibility of a three-way geographic split. The Goochland County Board of Supervisors opposes any geographic split that divides the county in half. Goochland County would like to remain part of the Richmond metropolitan area. The Goochland County Board of Supervisors did not express a position on the overlay alternative. The Chesterfield County Board of Supervisors favors a geographic split that does not split the county and also delays the implementation of an overlay. The Chesterfield County Board of Supervisors believes this is the best alternative for the citizens and businesses in the 804 area code of the Richmond metropolitan area.

The telecommunications companies filing comments included AT&T Corp.; Cox Virginia Telcom, Inc. and the Virginia Cable Telecommunications Association; GTE South Incorporated and

GTE Wireless Incorporated; and Central Telephone Company of Virginia, United Telephone-Southeast, Inc., Sprint PCS and Sprint Communications Company of Virginia, Inc.

In its comments, AT&T Corp. (“AT&T”) noted that two principles should guide the Commission in this proceeding. First, the Commission should act expeditiously since the numbers in the 804 area code are expected to exhaust in the fourth quarter of 2001. Unless a relief mechanism is in place, there is a risk that consumers may be unable to obtain additional telecommunications services. Second, area code relief must be competitively neutral to serve the goals of the Telecommunications Act of 1996. In other words, the solution chosen by the Commission should not favor incumbent carriers over new entrants, nor should it favor one type of carrier or technology over another. If the Commission chooses the overlay option, AT&T recommends that the Commission take certain measures to combat the potential discrimination new entrants in the market may encounter as incumbent carriers will continue to assign telephone numbers with the “old” area code, while new entrants are required to assign the “new” less desirable area code. AT&T recommended the following: (1) all local dialing should become ten-digit dialing to avoid the circumstance where calls to or between an incumbent’s customers with the “old” area code could be dialed with only seven digits, but calls to or between a new entrant’s customers with the “new” area code would require ten-digit dialing; (2) all remaining NXXs in the 804 area code should be allocated in a nondiscriminatory manner in accordance with FCC rules and Industry-developed plans so that incumbents and new entrants have an equal chance to obtain new NXX numbers with the preferred “old” area code; (3) there should be permanent wireline portability; and (4) the overlay should apply equally to all telecommunications carriers and services. If the Commission decides in favor of a geographic split, AT&T recommends that the Commission should adhere to two principles. First, the geographic split should occur along rate center boundaries to avoid implementation and administrative problems for the carriers. Second, any geographic split should give wireless carriers the option of allowing customers to keep their existing telephone numbers. Otherwise, existing wireless customers would need to return their handsets for reprogramming, which would be a burden for the customer and a huge expense for the wireless carriers.

In their comments, Cox Virginia Telcom, Inc. (“Cox”) and the Virginia Cable Telecommunication Association (“VCTA”) recommended a geographic split as the preferred method for area code relief. They believe a geographic split provides the greatest possible relief with the least disruption and confusion for consumers and the least adverse effect on competitive providers. By choosing a geographic split, the Commission would: (1) maintain the geographic orientation traditionally associated with telephone numbers; (2) preserve seven-digit dialing throughout the geographic areas and avoid the inconvenience of dialing ten digits for all local calls within the affected areas at the present time; (3) ensure the relief plan is competitively neutral; and (4) preserve the ability in any future relief cycle to consider an overlay option once the Commission has more decisive guidance from the FCC on what other number conservation measures are available to the Commission.

Cox and VCTA raised six points on the impact of geographic splits and overlays on customers. First, the inconvenience of a geographic split is temporary and the cost to businesses can be minimized by sufficient advance notice. With such notice, businesses would be able to replenish existing stocks of stationery and business cards to reflect the new area code. The issuance

of new telephone directories could be coordinated with the change in area code. Second, ten-digit dialing with an overlay may cause confusion for the elderly, the young, and persons with disabilities, in terms of adaptability, remembering longer telephone numbers, and confusion around which numbers have which area codes. With an overlay, there will be instances where homes or businesses will have different area codes for separate lines at the same location. Third, both geographic splits and overlays may require telephone equipment upgrades or reprogramming. Fourth, Virginians are accustomed to geographic splits but not overlays. There has not been enough time to study the long-term effects of the overlay in the 703 area code. Fifth, the dialing patterns in the 804 area code are different from the patterns in the 703 area code. In the 703 area code, customers were already accustomed to dialing ten digits to make calls to adjacent communities in Maryland and the District of Columbia. In the 804 area code, customers are used to dialing seven digits to make the same local call. Sixth, the Commission should look at the circumstances of each case and continue with geographic splits where the size of an area warrants a split. The Commission should implement overlays only in major urban areas where the geographic size of the area has become so limited that further geographic splits are impossible without dividing communities of interest.

Cox and VCTA further argue that overlays have an adverse impact on new entrants and stifle competition. They raise the same argument as AT&T that there is a perception that all area codes are not created equal. Individuals and businesses tend to view the “old” area code as more desirable than the “new” area code. They argue the anticompetitive effect of overlays stems from the method used to allocate NXX codes between incumbent carriers and new entrants in the market. They further argue that a geographic split will preserve the Commission’s ability to consider an overlay after it has received further guidance from the FCC on what other number conservation measures are available to the Commission. Cox and VTCA are aware that the Commission petitioned the FCC for authority to implement certain number conservation measures in Virginia.

Although Cox and VTCA are recommending a geographic split in this case, if the Commission decides to implement an overlay, they believe certain steps should be taken prior to its implementation. These include: (1) because an overlay is considerably more confusing for customers, the Commission should immediately order the incumbent local exchange carriers to develop and implement customer education programs that explain the attributes of an overlay and how it affects their telephone usage; (2) in order for an overlay to work and not have an adverse impact on new entrants, local number portability must be provided to consumers; (3) prior to implementing an overlay, the Commission should order all incumbent local exchange carriers in the 804 area code to implement local number portability in their switches; (4) all unassigned NXXs in the original area code should be set aside for competitive local exchange carriers, which will mitigate the imbalance in the assignment of NXX codes between incumbents and new entrants; and (5) the Commission should order unassigned number porting from one local exchange carrier to another, without the requirement that the customer must have previously had an access line with the porting company.

In their comments, GTE South Incorporated and GTE Wireless (collectively “GTE”) support the recommendation and rationale of the Industry for the overlay area code relief option. GTE reiterated that overlays are less costly and more effective than geographic splits. GTE experienced firsthand the burden and expense involved in changing telephone numbers for its

corporate headquarters in Dallas, Texas, when the Texas Public Utility Commission (“Texas Commission”) ordered a geographic split of the Dallas area in 1997. GTE was required to change all of its telephones, fax machines, cellular phones, pagers, company letterhead and business cards, as well as re-program wireless handsets, to reflect the new area code. GTE argued overlays are a more efficient mechanism for area code relief. GTE cited the Texas Commission’s 1998 decision to “retroactively overlay” the Dallas area after it realized its geographic split did not produce similar projected lives for the old and the new area codes. GTE urged the Commission to avoid the mistake made by the Texas Commission.

In their comments, Central Telephone Company of Virginia, United Telephone-Southeast, Inc., Sprint PCS and Sprint Communications Company of Virginia (collectively “Sprint”) favor the use of an overlay as the best long-term area code relief solution, taking into consideration customers, competition, costs and the public interest. Sprint argues the use of an overlay for area code relief is of universal benefit to all existing customers since no one must undergo the inconvenience and expense of changing their telephone number. Although an overlay requires customers to dial ten digits, customers would have had to transition to ten-digit dialing anyway with the advent of local number portability. A geographic split may not provide a long-term solution for area code relief. Sprint cites the recent experience in the 540 area code. Although the 540 area code was created in 1996, it is due to exhaust in the first quarter of 2002. Sprint also notes that overlays have been used successfully in the northeast and have been ordered recently for the 703 area code. In order to foster competition among carriers when an overlay is used for area code relief, Sprint argues it is essential that protected NXX codes be eliminated, and that all-services overlays continued to be used for area code relief in the future.

Discussion

Several general trends became readily apparent as this case progressed. Although the turnout at the public hearings was light, those that chose to express their opinion were adamant in their positions. Individuals favored a geographic split as the best method for area code relief, even if that meant having to change their area code. Businesses favored the overlay because they wanted to avoid the cost and inconvenience associated with changing their area code as part of a geographic split. Those responsible for business and economic development in many localities favored the overlay, while the actual governing bodies in those localities favored a geographic split as long as it did not divide the community or place them on the wrong side of the geographic split boundary. The Industry itself was divided with incumbent telecommunications carriers recommending an overlay and new entrants arguing in favor of a geographic split. Considering these divergent points of view, is there one area code relief alternative before the Commission that will satisfy everyone? The simple answer is no. Is there one area code relief alternative before the Commission that balances the interests of all of the parties and provides long-term area code relief for the 804 area code? The answer is yes.

In looking at the original five relief alternatives considered by the Industry, several of those alternatives were unacceptable from the outset. The Industry rejected Alternative 2, a geographic split along the LATA boundary, because of the vast inequity in the projected life of the two area codes. The projected life of Area A was 25.1 to 50.2 years, yet Area B was 4.4 to 8.8 years. The

Commission should reject this alternative for the same reason. If this alternative were selected, the Commission would encounter the same situation now faced in the 757 and 540 area codes; namely, having to take further action shortly after implementing area code relief.

The Industry rejected Alternative 3, a geographic split that divides Goochland, Powhatan, and Chesterfield Counties, and places the Cities of Petersburg, Hopewell and Colonial Heights in a different area code than Richmond, because the proposed split boundary divides the existing Richmond LATA as well as Chesterfield County. The Commission should reject this alternative because the proposed geographic split divides significant communities of interest. The Industry pointed out in its comments that geographic splits should be avoided because they divide communities of interest. This is true only if one consciously decides to divide a community of interest, or the geographic area is so small that dividing a community of interest cannot be avoided. The existing 804 area code is large enough that a geographic split boundary line may be configured to avoid communities of interest. For a geographic split to work in the 804 area code, all localities with political, economic, or social ties to the Richmond – Petersburg metropolitan areas should be included in the same area code.

The Industry rejected Alternatives 4 and 5, geographic splits that draw a circle around Richmond and include either the nine or fourteen rate centers immediately surrounding the Richmond rate center, because each alternative creates burdens and causes added expense to the wireless industry, creates an inconvenience for half the customers who have to change their telephone numbers, and creates a competitive disadvantage for small businesses that must change their numbers. Primarily, the Commission should reject these alternatives because they divide significant communities of interest. Western Goochland and Powhatan Counties, southern Chesterfield County, Charles City and New Kent Counties, and the Cities of Petersburg, Hopewell and Colonial Heights are interdependent with the Richmond metropolitan area. Placing all or portions of these communities in a separate area code would hinder regional cooperation among the various localities, increase the cost of doing business in the area, and would stall the economic engine that is driving central Virginia.

Of the alternatives requested by the Hearing Examiner for the Commission's consideration, Alternative 3a, a geographic split that modifies Alternative 3 to include all of the rate centers that have seven-digit dialing to Richmond, addresses the problem of dividing communities of interest. This alternative includes everyone who currently has a local dialing option to Richmond and Petersburg in the same area code. However, this alternative does not provide meaningful long-term area code relief. The projected life of Area B is only 5.9 to 11.7 years. For this reason, the Commission should reject Alternative 3a. Alternative 5a, a geographic split that modifies Alternative 5 by including all the rate centers that have seven-digit dialing to Richmond, also addresses the issue of dividing communities of interest. However, this alternative does not provide meaningful long-term area code relief, and it creates an area code that consists of two regions that are not geographically contiguous. For these reasons, the Commission should reject Alternative 5a.

Of the two remaining alternatives, Alternative 1, the all-services overlay plan recommended by the Industry, and Alternative 3b, the geographic split with an overlay recommended by the Staff, I find Alternative 3b is the best method to accomplish area code relief in the 804 area code. Alternative 3b strikes a balance between the need for meaningful area code relief and the divergent

points of view presented to the Commission at the public hearings. With Alternative 3b, some individuals must put up with the inconvenience of dialing ten digits for a local call, and some businesses must incur the cost and expense of changing their area code. There is one absolute certainty in this case: not everyone will be satisfied with the result I am recommending, but it is the fairest alternative for all parties.

Depending on the criteria considered important by the Commission, Alternative 3b is in almost all respects superior to Alternative 1. Alternative 3b does not divide any significant communities of interest. Everyone who currently has seven-digit dialing to Richmond and Petersburg is included in the same area code. Alternative 3b splits 12 two-way local calling routes along other portions of the split boundary, but this is the fewest of any of the geographic split alternatives.

Although an overlay has been implemented in the 703 area code, there is no actual experience with consumer acceptability of overlays in Virginia. Mandatory ten-digit dialing was implemented in the 703 area code in March 2000, but those consumers were already accustomed to dialing ten digits for local calls to Maryland and the District of Columbia. Consumers in the 703 area code have not had to make calls using the new overlay area code; and until they do, there is no way to gauge consumer acceptability of overlays.

The Industry's all-services overlay completely ignores the concerns of individual consumers over the possible confusion of multiple area codes serving the same geographic area, the same business, or the same house. An overlay works best when a business or residential consumer has all of their telecommunications needs satisfied before the overlay area code is implemented. If they decide to add a line after the overlay area code is implemented that business or residential consumer could be served by two different area codes. As successive overlays are added to the same geographic area, one wonders how confusing it may become to use the telephone for local phone service. A person would have to continually consult a telephone directory or directory assistance for the correct area code to dial.

Alternative 3b allows the Industry and the Commission the opportunity to gain experience from implementing the overlay in the 703 area code before an overlay would be required with Alternative 3b. It may be 6 to 12 years before an overlay would be required with Alternative 3b. By then, the Industry, the North American Numbering Council, or the FCC may have developed a better method for area code relief.

Alternative 3b places the overlay only on Area B, the urban portion of the 804 area code experiencing the explosive growth in telephone number usage. The rural portion of the 804 area code, Area A, would not have to face the potential of an overlay until the next time area code relief is required for their area. In Area A, some people consider going from four-digit local dialing, to seven-digit local dialing, to ten-digit local dialing, progress in the wrong direction.

Alternative 3b offers a 20-40 year solution for area code relief, while Alternative 1 offers a 10-20 year solution before another all-services overlay area code would be needed. The Commission should select the alternative that solves the problem for the longest period of time. People generally resist change, but if they must change, they do not want to do so every few years.

The cost and inconvenience usually associated with a geographic split is somewhat mitigated with Alternative 3b. Most geographic splits try to split an area code in half. In this case, Alternative 3b is close to a 1/3-2/3's split. In other words, two-thirds of the individuals and businesses in the 804 area code would be unaffected by implementing Alternative 3b. Those individuals and businesses in Area B would retain the 804 area code. Individuals and businesses in Area A would have to change their area code, but the impact of this change can be minimized. The Industry can coordinate the timing and implementation of the new area code in Area A to reduce the cost and inconvenience to both business and residential consumers. The change could be coordinated with the issuance of the new telephone directories and yellow pages. With enough advance notice, businesses could use up their existing stock of office supplies and promotional materials containing their old area code. To further reduce the impact of Alternative 3b on consumers in Area A, the Commission should permit wireless carriers in this area the option of allowing their customers to retain their existing telephone numbers. This avoids the expense and inconvenience of returning their cellular phones for reprogramming. Some members of the Industry recommended this approach to reduce the impact of a geographic split. However, as the wireless customers in Area A upgrade their telephones, they should be required to change to the new area code at that time. This allows for the least costly transition for wireless carriers and consumers to the new area code.

Finally, Alternative 3b allows competition to further develop in the 804 area code. With only 15% of the NXX codes in the 804 area code held by competitive local exchange carriers, Alternative 3b levels the playing field by freeing up all the NXX codes from Area A for use in Area B. Competitive local exchange carriers would have an equal chance to compete for these new blocks of numbers.

Findings and Recommendations

In conclusion, based on the evidence received in this case, and for the reasons set forth above, I find the Commission should approve Alternative 3b as the best method for area code relief for the 804 area code.

In accordance with the above findings, ***I RECOMMEND*** that the Commission enter an order that:

- (1) ***ADOPTS*** the findings in this Report;
- (2) ***APPROVES*** Alternative 3b for area code relief for the 804 area code; and
- (3) ***PERMITS*** wireless carriers in Area A, the option of allowing their customers to retain their existing telephone numbers until such time as the customers upgrade their wireless telephones.

Comments

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and Commission Rule 5:16(e)) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within fifteen (15) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.

Respectfully submitted,

Michael D. Thomas
Hearing Examiner